

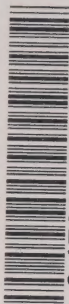
CA20N

L72

-1991

056

Government  
Publications



3 1761 12062554 6







CA20N  
L72  
-1991  
056

Government  
Publications

# Ontario Human Rights Commission Policy on Requiring a Driver's Licence as a Condition of Employment

Published April 1990  
Reprinted November 1991  
Disponible en français

ISBN: 0-7729-9772-1

 **Ontario**  
Human Rights Commission

---

*PLEASE NOTE*

*These guidelines contain the Commission's interpretation of the Code provisions as they relate to requests for a driver's licence on application forms. They are subject to interpretation by boards of inquiry and the courts, and should be read in conjunction with the specific provision of the Code. Any questions regarding the policy or the Code generally should be directed to the staff of the Ontario Human Rights Commission.*

---



---

## POLICY ON REQUIRING A DRIVER'S LICENCE AS A CONDITION OF EMPLOYMENT

Subsection 22.-(2) of the Ontario *Human Rights Code*, 1981 states that equal treatment with respect to employment is infringed where a form of application is used or a written or oral inquiry is made of an applicant that directly or indirectly classifies or indicates qualifications by a prohibited ground of discrimination. The prohibited grounds of discrimination with respect to employment are as follows: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status or handicap.

As an individual's licence number contains his or her birth date, requesting such information on an application form would be contrary to subsection 22.-(2).

Furthermore, a general requirement of a driver's licence may result in the inadvertent exclusion of applicants with certain disabilities who otherwise qualify for the position, but because of their particular disabilities are unable to obtain a driver's licence. Therefore, the question, "Can you drive?" on an application form, also may be contrary to section 10. This section provides that qualifications or requirements that appear to be neutral but have a disproportionately negative impact on a group covered in the Code must be removed or, if that is not possible, that the needs of the group so affected must be accommodated.

This duty to provide accommodation is discussed further below.

For positions where driving is an essential duty of the job, the inclusion of the following statement on an application form or in an advertisement would be an appropriate means for addressing both the respective needs and concerns of the employer and applicant.

**"This position requires a valid driver's licence and proof of it is required after hire."**

Subsection 22.-(3) stipulates that an employer may ask questions at a personal interview if there is a relevant provision that allows for a distinction to be made under the *Code* e.g. subsection 16.-(1) (see below). Therefore subsection 22.-(3) allows employers to enquire about the existence of a driver's licence during an interview for positions where the ability to drive is an essential duty.

Employers should first determine all jobs within their organization where the ability to drive is an essential duty. Applications for these positions should include this statement regarding the need to have a valid driver's licence. Other applications should not refer to the ability to drive or possession of a driver's licence.

---



---

## Duty to Accommodate

---

For occupations that require the ability to drive, it may be possible to accommodate the needs of a worker with a disability to enable that person to do the essential duties of the position. For instance, an employer may be able to accommodate the needs of a travelling salesperson with a mobility-related disability simply by paying for the cost of purchasing and installing a set of hand-controls into a company car.

In some circumstances, the nature or degree of a person's disability may preclude that individual from performing the essential duties of a job. Consequently, subsection 16.-(1) provides that the right to equal treatment in respect of employment is not infringed where an individual is treated differently because he or she is incapable of performing or fulfilling the essential duties of the position because of handicap.

Subsection 16.-(1a) provides, however, that an applicant or worker shall not be found incapable of performing the essential duties of a job unless it can be demonstrated that it would cause undue hardship to fit his or her needs.

Section 10, as mentioned earlier, also establishes a similar duty to provide accommodation. Subsection 10.-(1) prohibits policies and practices that appear to be neutral but have an adverse impact on members of a group that is designated in the *Code*. Such a policy or practice may be in breach of the *Code* unless the employer can show that the action is reasonable

and bona fide in the circumstances. To establish that the policy or practice is reasonable and bona fide in the circumstances, it must be shown that the employer cannot accommodate the needs of the adversely affected group without suffering undue hardship.

To avail themselves of the defences in sections 10 and 16, employers must establish that they are unable to accommodate the needs of the individual or group without undue hardship, taking into account the cost of accommodation and any health and safety concerns.\*

The duty to provide accommodation extends to all facets of the employment process: hiring, employment testing, on-the-job training, working conditions, transfers, promotions, etc.

---

\* Please refer to the Commission's Guidelines for Assessing Accommodation Requirements for Persons With Disabilities to receive a detailed explanation of standards to be applied in assessing undue hardship.

---

---

# THE ONTARIO HUMAN RIGHTS COMMISSION

Ontario Human Rights Commission  
400 University Avenue, Toronto, Ontario M7A 2R9

Tel: (416) 314-4500

TDD: (416) 314-4535

Address all correspondence to your closest District Office:

## **HAMILTON**

110 King Street West  
Suite 310  
L8P 4S6  
Tel.: (416) 521-7870  
1-800-668-9508  
TDD: (416) 546-8278

## **MISSISSAUGA**

1290 Central Parkway  
3rd Floor  
L5C 4R3  
Tel.: (416) 273-7811  
1-800-268-2808  
TDD: (416) 273-6648

## **SUDBURY**

199 Larch Street  
6th Floor  
P3E 5P9  
Tel.: (705) 675-4455  
1-800-461-4000  
TDD: (705) 675-6392

## **KENORA**

227 2nd Street South  
3rd Floor  
P9N 1G1  
Tel.: (807) 468-2866

## **OTTAWA**

255 Albert Street  
4th Floor  
K1P 6A9  
Tel.: (613) 232-0489  
1-800-661-0228  
TDD: (613) 232-3909

## **THUNDER BAY**

28 North Cumberland St.  
Suite 403  
P7A 4K9  
Tel.: (807) 343-6003  
1-800-465-8996

## **KINGSTON**

80 Queen Street  
Suite 202  
K7K 6W7  
Tel.: (613) 548-6750  
1-800-461-2958  
TDD: (613) 267-5755

## **SAULT STE. MARIE**

390 Bay Street  
3rd Floor  
P6A 1X2  
Tel.: (705) 942-8417  
1-800-461-0551

## **TIMMINS**

210 Spruce St. South  
Suite 103  
P4M 2M5  
Tel.: (705) 268-2838  
1-800-461-7863

## **KITCHENER**

824 King Street West  
4th Floor  
N2G 1G1  
Tel.: (519) 570-9622  
1-800-263-9525

## **SCARBOROUGH**

10 Milner Business Court  
Suite 404  
M1B 3C6  
Tel.: (416) 314-3555  
1-800-268-6585  
TDD: (416) 314-3572

## **TORONTO CENTRAL**

595 Bay Street  
4th Floor  
M5G 2C2  
Tel.: (416) 326-9511  
TDD: (416) 326-9669

## **LONDON**

255 Dufferin Avenue  
Suite 601  
N6A 5K6  
Tel.: (519) 438-0076  
1-800-268-8333  
TDD: (519) 438-4207

## **ST. CATHARINES**

1 St. Paul Street  
Suite 603  
L2R 7L4  
Tel.: (416) 684-7406  
1-800-263-4916

## **WINDSOR**

500 Ouellette Avenue  
Suite 305  
N9A 1B3  
Tel.: (519) 256-8278  
1-800-265-5140  
TDD: (519) 256-4410

### **Toll-Free Long Distance:**

If you are outside the local area and within the area code, call the number listed under 1-800.

---





Digitized by the Internet Archive  
in 2024 with funding from  
University of Toronto

<https://archive.org/details/31761120625546>







